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TAGS: [PGOV](#) [KDEM](#) [PHUM](#) [PINR](#) [BL](#)
SUBJECT: BOLIVIAN CONSTITUTIONAL COURT PRESIDENT THREATENS
TO RESIGN

REF: A. 07 LA PAZ 688
[1](#)B. 08 LA PAZ 1839
[1](#)C. LA PAZ 00062

Classified By: A/EcoPol Chief Joe Relk for reasons 1.4 (b, d)

[1](#)1. (C) Summary: Bolivian Vice President Alvaro Garcia Linera announced January 13 the Congress would end its session without designating new members of the Constitutional Tribunal or the Supreme Court. Assuming voters approve the new constitution on January 25, new appointments would not occur until at least January 2010, when the "Plurinational Assembly" is scheduled to enter into authority. In response, the Tribunal's lone member announced she would resign, calling the events "the last days of democracy." Beginning in March, the Supreme Court will be forced to operate at its quorum minimum of eight justices, with Congressional investigations pending against two more of its members. With the Tribunal and the Supreme Court both potentially defunct, and President Morales warning he could close the Congress and rule by presidential decree, Bolivia could be left with only one functioning constitutional power - the executive - in [1](#)2009. End summary.

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Judicial Collapse Imminent?
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[1](#)2. (U) On January 13, Bolivian Vice President Alvaro Garcia Linera announced the Congress would end its session on January 15 without designating new members of the Constitutional Tribunal or the Supreme Court. Stating that they "had made great efforts to designate new judicial authorities" but that there was "a lack of time," Garcia Linera said the Congress would not take up the topic again before ending its session. On January 25, Bolivia will hold a national referendum on a proposed new constitution. If the constitution passes, it would go into effect ten days later, and the Congress would no longer be able to appoint new members of the judiciary pending elections in December 2009 for its successor body, the Plurinational Assembly. The Plurinational Assembly would enter into authority on January 22, 2010.

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Judiciary Background
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13. (U) The Bolivian judiciary is comprised of three main elements: the Constitutional Tribunal, the Supreme Court, and the National Electoral Court. (A fourth group, the Judicial Council, acts as an oversight body.) The Constitutional Tribunal is Bolivia's highest court on constitutional matters, and the Supreme Court is the highest court of appeals for all other matters. The National Electoral Court rules on all matters related to elections. The Constitutional Tribunal is operating with only one member (out of ten total), and in March the Supreme Court will be reduced to a minimum quorum of eight justices (out of twelve total). Congressional investigations are also pending against two more Supreme Court justices. The National Electoral Court is operating with a minimum quorum of three members.

14. (C) In 2007, President Morales and his ruling Movement Toward Socialism (MAS) party effectively dismantled the Constitutional Tribunal, forcing a series of resignations among Tribunal members. Many of these resignations were coerced through intimidation tactics, attempted impeachment hearings, and pay cuts. Of the three judicial institutions, the Constitutional Tribunal is considered the most fragile because, according to a former Tribunal magistrate, it serves as "the brake on excessive power in the Executive branch." (Reftel A)

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Supreme Court: "Mortal Wound to Rule of Law"
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15. (U) After hearing the Vice President's announcement, the lone member of the Tribunal, Silvia Salame, announced she would retire and leave the fate of the Tribunal in the hands of the Congress and the government. As a parting comment, she warned that "the last days of democracy are being decided at this moment." Similarly, Supreme Court President Eddy Fernandez said "the general crisis Bolivia is living through has entered into a phase in which... state violence, the damaging of established norms, the transgression against citizens' rights, and the aggression against democratic institutions have inflicted a mortal wound to the rule of law -- the judicial branch being one of the victims of this deterioration." Garcia Linera responded that "democracy is not about four functionaries... In the coming days, democracy will be solidly maintained (through) the participation of the people in decision-making."

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Congress' Closure Soon To Follow?
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16. (U) Echoing comments made by President Morales on January 11 (Reftel C), MAS Senator Felix Rojas proposed closing the Congress if the opposition "interferes" with the transition to the new constitution and the passage of implementing legislation. He called on President Morales to rule by decree, adding that closing Congress would save money and be a better way to implement the will of the people. He assured that closing Congress would not amount to a dictatorship. Rather, he said it would be "the exercise of the legitimacy of the power constituted through the Constituent Assembly and the Executive Branch. If the President did not do so (i.e. close Congress), he would not be working with the sovereign will of the people."

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Comment
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17. (C) The idea put forward by the MAS that Morales is simply implementing the "will of the people" neatly obscures the fact that by muzzling the judiciary, President Morales would be that much closer toward exercising rule by decree. In

August 2007, Morales said that "being subjected to the law is damaging us (the Morales government); though they may say our decrees are unconstitutional, that does not matter." (Reftel C) On August 28, 2008, Morales originally tried to decree the date for the constitutional referendum, saying, "Today the vote of the people does not only serve to elect authorities, today it serves to decide politics." (Reftel B) In the past, President Morales has generally been true to his word -- when he promises an action he generally delivers. If he follows through, closing Congress and impeaching Supreme Court justices, Bolivia will be left with only one functioning constitutional power -- the executive branch which he heads.

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